

## **APPENDIX B – ZONING**

### **7000 – ADMINISTRATIVE PROCEDURES**

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#### **7300. - VARIANCE PROCEDURES**

##### **[Sec.] 7305. - Purpose.**

The purpose of the variance procedure is to provide relaxation of the terms of this zoning ordinance when owing to conditions peculiar to the property and not the result of actions of the applicant a literal enforcement of the ordinance would result in unnecessary and undue hardship. Sections 7300 through 7399 shall be known as the variance procedure.

##### **[Sec.] 7310. - Jurisdiction.**

The director of community development shall be responsible for the administration of the variance procedure; and the Board of Adjustment shall be responsible for review, evaluation, and action on all applications.

##### **[Sec.] 7315. - Applicability.**

A variance may be authorized only for development standards, including sizes of lot area, yards, setbacks, heights, etc. This procedure shall not be applicable to establishment or expansion of a use [which] is otherwise prohibited or to grant relief from administrative procedures.

##### **[Sec.] 7320. - Submission requirements.**

The application for variance shall be submitted to the director of community development, along with any applicable fee required by section 7650, at least 21 days prior to the regular meeting of the Board of Adjustment. The application shall include the following:

- A. Name, address, and phone number of the applicants.
- B. Legal description of the property.
- C. Description of the nature of the variance requested.
- D. A narrative statement demonstrating that the requested variance conforms to the following standards:
  - (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  - (2) That literal interpretation of the provisions of this ordinance would deprive the applicant of a right commonly enjoyed by other properties in the same district under the terms of this ordinance.
  - (3) That the special conditions and circumstances do not result from the actions of the applicant.
  - (4) That the granting of the variance would otherwise be in harmony with the objectives of this ordinance and would not confer upon the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
- E. Such other information as the director of community development may require.

##### **[Sec.] 7325. - Public hearing and notice.**

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The director of community development shall schedule a hearing by the Board of Adjustment by placing it on the agenda of the next regularly scheduled meeting of the board, and shall provide notice as prescribed in section 7630.

[Sec.] 7330. - Report of the director of community development.

The director of community development shall review the variance application and submit a report to the Board of Adjustment. This report shall be made available to the applicant at least ten days prior to the public hearing.

[Sec.] 7335. - Action by the Board of Adjustment.

The Board of Adjustment shall review the variance application against the review and evaluation criteria established in section 7340 and shall either approve or deny the request unless it requires additional information before it can make a final determination. In such case, the board shall request the specific information required and schedule a rehearing at its next regular meeting.

The concurring vote of four members of the Board of Adjustment shall be necessary to grant a variance.

[Sec.] 7340. - Review and evaluation criteria.

The application for variance shall be reviewed and evaluated using the following criteria:

- A. The granting of the variance will not be contrary to the public interest.
- B. Special conditions exist, other than financial hardship alone, whereby a literal enforcement of the terms of this ordinance will result in unnecessary hardship to the owner of the land.
- C. The variance will not permit an activity upon the land which is not allowed by the terms of this ordinance.
- D. The granting of the variance is consistent with the intent of this ordinance, is in harmony herewith, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

[Sec.] 7345. - Lapse of approval.

Any variance granted or authorized by the Board of Adjustment under the provisions of this ordinance shall authorize the issuance of the building permit for a period of 180 days from the date of favorable action of the board unless said board shall have in its action approved a longer period of time and has so shown such specific longer period in the minutes of its action. If the building permit shall not have been applied for within said 180-day period or such extended period, as the board may have specifically granted, then the variance shall be deemed to have been waived and all rights thereunder terminated. Such termination and waiver shall be without prejudice to a subsequent appeal, and such subsequent appeal shall be subject to the same regulation and requirement for hearing as herein specified for the original appeal.